

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

(1) KIMBERLY UNDERWOOD,,

Plaintiff,

v.

(1) STATE OF OKLAHOMA, *ex rel.*,
OKLAHOMA OFFICE OF JUVENILE
AFFAIRS,

Defendant.

Case No.: 17-cv- 1303-W

**(Removed from Oklahoma
County District Court Case No:
CJ-17-2534)**

DEFENDANT'S NOTICE AND PETITION OF REMOVAL

Defendant, State of Oklahoma, *ex rel.*, Oklahoma Office of Juvenile Affairs ("Defendant" or "OJA"), hereby give notice of their removal of the action currently pending in the District Court of Oklahoma County, State of Oklahoma, pursuant to 28 U.S.C. §1441 *et seq.* and Fed. R. Civ. P. 81(c), and Defendant does not waive, and expressly reserves all defenses including, but not limited to, Eleventh Amendment sovereign immunity defenses, except as to choice of forum. In Support of Defendant's Notice and Petition of removal, Defendant shows the Court as follows:

1. The captioned proceeding was originally filed on November 14, 2017, in the District Court of Oklahoma County, State of Oklahoma, and is styled *Kimberly Underwood v. State of Oklahoma ex rel., Oklahoma Office of Juvenile Affairs*, Case No. CJ-2017-6534, but Defendant was not served until November 15, 2017.

2. That this case is being timely removed to this Court, and Plaintiff alleges gender discrimination and retaliation after complaining of gender

discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, and Oklahoma's Anti-Discrimination Act.

3. Accordingly, the United States District Court for the Western District of Oklahoma has original subject matter jurisdiction of this case pursuant to 28 U.S.C. §1331.

4. This removal is timely as the matter is brought to this Court within thirty (30) days of service (11/15/2017) of the Petition and notice of assertion of federal claims.

5. The undersigned represents the State.

6. By this removal, Defendant reserves, and does not waive any rights to assert, or the protection of, any available constitutional, statutory, common law, or other provision that does, might, or could limit the Court's jurisdiction of the allegations of Plaintiff's Petition, or any proposed amendment thereto, including allegations of entitlement to relief thereunder, including, but not limited to, the Eleventh Amendment sovereign immunity. (*See: Grothoff v. Nixon*, 2007 WL 2693835 (W.D. Mo.); *Dansby-Gils v. Jackson State University*, 2010 WL 780531, (S.D. Miss.); and *Neiberger v. Hawkins*, 70 F.Supp.2d 1177(D. Colo. 1999).

7. In accordance with 28 U.S.C. §1446 and LCvR81.2, a copy of the following is attached:

Exhibit 1: Oklahoma County Docket Sheet;

Exhibit 2: Petition

Exhibit 3: Entry of Appearance;

Exhibit 4: Return Executed – OJA served 11/15/2017.

WHEREFORE, Defendant respectfully request this action be removed from the District Court of Oklahoma County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma, and for any such other relief as the Court deems proper and under the circumstances.

Respectfully submitted,

/s/Richard N. Mann
RICHARD N. MANN, OBA#11040
Assistant Attorney General
Oklahoma Attorney General's Office
Litigation Division
313 NE 21st Street
Oklahoma City, OK 73105
Telephone: (405) 521-3921
Facsimile: (405) 521-4518
Email: richard.mann@oag.ok.gov
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day December 2017, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing. I further that a true and correct copy of the foregoing document was sent via the ECF System to the following persons who are registered participants:

Amber Hurst
Hammonds & Assoc.
325 Dean A. McGee
Oklahoma City, OK 73102
Email: amber@hammonslaw.com
Attorney for Plaintiff

/s/Richard N. Mann
Richard N. Mann